IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.91 OF 2005

Dattatraya Krishna Lokhande. ..Petitioner.

V/s.

Jai Jagdamba Bahuddeshya Sanstha,
Barshi & Ors. ..Respondents.

WITH

CONTEMPT PETITION NO.93 OF 2005

Sudhakar S. Gaikwad. ..Petitioner.

V/s.

Jai Jagdamba Bahuddeshya Sanstha,
Barshi & Ors. ..Respondents.

Mr.Dinesh W. Bhosale for petitioner.

Mr.M.V.Upadhye for respondent Nos. 1 and 2.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 20, 2006.

P.C. :

1. Heard counsel for the parties.

2. There is no dispute that the respondent management has abided by the assurance given before this Court that the petitioners' payscale as well as seniority would be protected. The petitioner has been allowed to resume duty after the order came to be passed by this Court on 2nd December, 2004. The

limited grievance in the present petition at the instance of the petitioner is that the management has not paid salary for the period, when the petitioner remained absent inspite of the assurance given before this Court that no action will be taken against the petitioner for absence from the date of transfer till resumption. Even on fair reading of the order dated 2nd December, 2004, it is not possible to accept the grievance of the petitioner. There is no express direction of the Division Bench of this Court that management shall pay salary to the petitioner even for the period when he did not work from the date of transfer till resumption. The law is well-settled that employee will not be entitled for pay for the period, which he has not worked. If the petitioner is aggrieved by the said action of the management, the Management cannot be blamed for the steps taken of not paying the amount during period when the petitioner had not actually worked on the principle of no work no pay. As the stand taken by the respondent is possible stand, which can be accepted in the context of the direction issued by the Division Bench, in such a case question of initiating contempt action does not arise. Hence, this petition is dismissed. Notice issued to the respondents is discharged.

3. It will be open to the petitioner to pursue this claim if aggrieved by the act of the respondent-management, in other appropriate proceeding, as may be permissible by law.